

Remarks

I. INTRODUCTION

Claims 1-5 have been amended and new claims 6-19 have been added to more clearly and distinctly claim what the Applicant regards as his invention. Claims 1-19 are now presently pending.

No new matter has been added. In view of the following remarks, reconsideration of the present application is respectfully requested.

II. REJECTION OF CLAIM 1

Claim 1 stands rejected under 35 U.S.C. § 103, the Examiner contending these claims are unpatentable over Beaty, U.S. Patent 5,682,819 ("Beaty"), in view of Ehrhart et al, U.S. Patent 6,186,404 B1 ("Ehrhart").

Applicant's amended claim 1 recites:

an automated lottery ticket cancellation device including means for receiving the unplayed lottery ticket therein and a thermal device for generating heat, the thermal device of the cancellation device permanently marking the unplayed lottery ticket at the area when positioned adjacent the thermal device prior to the imaging the unplayed lottery ticket.

Applicant respectfully submits that neither Beaty, Ehrhart, nor their proposed combination teaches the above-recited limitation of Applicant's claim 1.

In particular, Ehrhart describes a system for voiding already-played lottery tickets, in particular scratch-off or instant-win tickets. See, e.g., Ehrhart at 14: 44-45. The stated aim of Erhart's device is to prevent subsequent re-use of the verification codes on such tickets, for example by attaching these codes to another ticket in an attempt to claim

a second prize. Applicant's claim 1 is directed to a system for canceling unplayed tickets. The claimed system may be used, *inter alia*, for canceling tickets that have been issued with wrongly selected lottery numbers.

Moreover, even if the proposed combination were Applicant's invention, the Applicant respectfully submits that there is no teaching or suggestion in the cited reference that would lead an ordinary artisan to the proposed combination. See MPEP 2143.01 ("obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art").

In arguing for the proposed combination, the Examiner notes: "Thermally altering the ticket allows less cases of lottery fraud, as a control number may be reliably hidden after passage under the branding device, a feature shown to be more reliable than just the often inaccurate older methods of hole punching and void box marking". See Office Action, 4/19/02, at 3. Although applicant's claim 1, Beaty, and Ehrhart are all admittedly directed at eliminating fraud, they are directed at preventing entirely different types of fraud. Ehrhart is intended to prevent the re-use of winning tickets or parts thereof. In contrast, both Beaty and Applicant's claimed device are directed at preventing the cancellation of ticket given to a customer by an unscrupulous vendor, an entirely different problem than the one faced by Ehrhart. See, e.g., Beaty 1:28-37. Applicant respectfully submits, that, rather than teaching the proposed combination of Ehrhart and Beaty, this difference of purposes actually teaches away from the proposed combination. Moreover, making the control number unreadable by the system, as suggested by the Examiner in the proposed combination, would actually render the proposed combination unusable, as it would prevent the subsequent imaging of the unique control number which may be needed for

proper ticket cancellation. See MPEP 2143.01 (proposed modification cannot render the prior art unsatisfactory for its intended purpose).

Moreover, in addition to the argument above, Beaty itself teaches away from the proposed combination. See MPEP § 2141.02 (portions of a reference that teach away from a proposed combination must be considered); MPEP § 2145 X.2 (references cannot be combined where reference teaches away from their combination). Beaty does not teach an "automated" lottery ticket cancellation device as recited in applicant's claim 1. Beaty describes a method employing manual device such as a "commercially available hole punch" that is separate from an terminal or ticket reader. Beaty 2:63-65. Beaty neither describes nor claims a system, let alone a lottery terminal with an "automated cancellation device". Beaty expressly describes one of the advantages of his invention is that the cancellation method may be modified "without having to change hardware". Beaty 2:21-23. Thus, Beaty teaches a conventional lottery terminal without a cancellation device and expressly teaches away from including additional hardware, such as the equipment described in Ehrhart, in the lottery terminal.

Finally, in addition to the argument above, in justifying the combination of Beaty and Ehrhart, the Examiner argues "using thermal print heads or devices" and substituting for void boxes or hole punching are "well-known in the art". Applicant respectfully traverses. No prior art citation is provided for this assertion. If the Examiner is taking official notice of this matter, the Applicant respectfully requests the Examiner to provide an affidavit on this issue pursuant to MPEP 2144.03, or in the alternative, to withdraw the rejection.

For all of the above reasons, the Applicant submits that claim 1 is not obvious in light of Beaty and Ehrhart. Withdrawal of the rejection is respectfully requested.

II. REJECTION OF CLAIM 2

Claim 2 stands rejected under 35 U.S.C. § 103 over Beaty in view of Erhart. Amended claim 2 recites

[a] an unplayed lottery ticket having a control number and an area with thermally reactive coating material disposed thereon; and

a terminal having a microprocessor for controlling the operation of the terminal, imaging means for imaging the unplayed lottery ticket, memory means for storing data pertinent to the unplayed lottery ticket, and an automated lottery ticket cancellation device including means for receiving the unplayed lottery ticket therein and a thermal device for generating heat, the thermal device of the cancellation device permanently marking the unplayed lottery ticket at the area when positioned adjacent the thermal device prior to the imaging means imaging the unplayed lottery ticket.

Neither Ehrhart, Beaty, nor their proposed combination disclose an imaging means for imaging unplayed lottery tickets, memory means for storing data pertinent to the unplayed lottery ticket, or an automated lottery ticket cancellation device for permanently marking unplayed lottery tickets. The proposed combination of Ehrhart and Beaty is also traversed for the same reasons as those given above for claim 1.

III. REJECTION OF CLAIMS 3-5

Claims 3 stands rejected under 35 U.S.C. § 103 over Beaty in view of Erhart. All of the arguments made above for claims 1 and 2, particularly those regarding the combination of Beaty and Erhart, apply equally well to claim 3.

Moreover, Claim 3 expressly recites: "recording the control number" of the ticket. Particularly, since the Examiner has indicated that the justification for the combination of Beaty and Erhart is that the control number will be hidden or destroyed by the branding device, this would suggest that the references teach away from applicant's claimed invention and away from the proposed combination.

Claims 4 and 5 stand rejected under 35 U.S.C. § 103 over Beaty in view of Erhart. All of the arguments made above for claims 1-3, particularly those regarding the combination of Beaty and Erhart apply equally well to claims 4 and 5.

Moreover, amended claim 4 recites

*an automated lottery ticket cancellation device
including means for receiving the unplayed lottery
ticket therein ...*

Similarly, claim 5 recites

*activating the chemically reactive coating material
of the lottery ticket for permanently marking the
unplayed lottery ticket.*

Neither Beaty nor Ehrhart teach or suggest the activating of a chemically reactive coating material for permanently marking an unplayed lottery ticket.

Withdrawal of the rejection of claims 3-5 is respectfully requested.

V. NEW CLAIMS 6-19

New claims 6-12 all recite a device configured to cancel an unplayed lottery ticket by permanently marking a reactive area. New claims 13-19 recite a method for canceling an unplayed lottery ticket having a reactive area disposed thereon. Thus, these new claims should be patentable over the prior art of record.

VI. CONCLUSION

In light of the foregoing, Applicants respectfully submit that all pending claims are in condition for allowance. The claimed invention is new, non-obvious, and useful. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

The Examiner is invited to contact the below-named attorney for any outstanding issues in connection with this application.

Respectfully submitted,

Dated: 9/19/02

By: 

Andrew Reibman
Reg. No. 47,893

KENYON & KENYON
One Broadway
New York, New York 10004
(212)425-7200

VERSION WITH MARKING TO SHOW CHANGES MADE

1. (Amended) A lottery terminal capable of canceling an unplayed [a] uniquely numbered lottery ticket having a control number and an area with thermally reactive coating material disposed thereon, the terminal comprising:

a microprocessor for controlling the operation of the terminal;

imaging means for imaging the unplayed lottery ticket;

memory means for storing data pertinent to the unplayed lottery ticket; and

an automated lottery ticket cancellation device including means for receiving the unplayed lottery ticket therein and a thermal device for generating heat, the thermal device of the cancellation device permanently marking the unplayed lottery ticket at the area when positioned adjacent the thermal device prior to the imaging the unplayed lottery ticket.

2. (Amended) A system for canceling [a] an unplayed uniquely numbered lottery ticket comprising:

[a] an unplayed lottery ticket having a control number and an area with thermally reactive coating material disposed thereon; and

a terminal having a microprocessor for controlling the operation of the terminal, imaging means for imaging the unplayed lottery ticket, memory means for storing data pertinent to the unplayed lottery ticket, and an automated lottery ticket cancellation device including means for receiving the unplayed lottery ticket therein and a thermal device for generating heat, the thermal device of the cancellation device permanently marking the unplayed lottery ticket at the area when positioned adjacent the thermal device prior to the imaging means imaging the unplayed lottery ticket.

3. (Amended) A process for canceling [a] an unplayed uniquely numbered ticket having a control number and an area with thermally reactive coating material disposed thereon, the

process comprising the steps of:

inserting the unplayed lottery ticket into a lottery terminal having means for receiving the unplayed lottery ticket therein;

activating the thermally reactive coating material of the unplayed lottery ticket for permanently marking the unplayed lottery ticket;

following the activating step, imaging the unplayed lottery ticket for detecting the activated thermally reactive coating material and for reading the control number of the unplayed lottery ticket; and

recording the control number.

4. (Amended) A lottery terminal capable of canceling [a] an unplayed uniquely numbered lottery ticket having a control number and an area with chemically reactive coating material disposed thereon, the terminal comprising:

a microprocessor for controlling the operation of the terminal;

imaging means for imaging the unplayed lottery ticket;

memory means for storing data pertinent to lottery ticket; and

an automated lottery ticket cancellation device including means for receiving the unplayed lottery ticket therein and a radiant energy source for generating radiant energy, the radiant energy source of the cancellation device permanently marking the unplayed lottery ticket at the area when positioned adjacent the radiant energy source prior to the imaging means imaging.

5. (Amended) A process for canceling [a] an unplayed uniquely numbered ticket having a control number and an area with chemically reactive coating material disposed thereon, the process comprising the steps of

inserting the unplayed lottery ticket into a lottery terminal having means for receiving the unplayed lottery ticket therein;

activating the chemically reactive coating material of

the lottery ticket for permanently marking the unplayed lottery ticket;

following the activating step, imaging the unplayed lottery ticket for detecting the activated chemically reactive coating material and for reading the control number of the lottery ticket; and recording the control number.

6.. (New) A lottery terminal configured for canceling an unplayed lottery ticket having a reactive area, comprising:

a controller;

an imaging device in communication with the controller, the imaging device configured to image the unplayed lottery ticket;

a memory in communication with the controller and configured to store data pertinent to the unplayed lottery ticket; and

an automated lottery ticket cancellation device in communication with the controller and configured to receive the unplayed lottery ticket and permanently mark the area prior to imaging the unplayed lottery ticket.

7. (New) The lottery terminal configured for canceling an unplayed lottery ticket having a reactive area of claim 6, wherein:

the reactive area is a thermally reactive coating material disposed on the lottery ticket and the automated lottery ticket cancellation device includes a thermal device for generating heat and configured to permanently mark the area when the unplayed lottery ticket is positioned adjacent the thermal device.

8. (New) The lottery terminal configured for canceling an unplayed lottery ticket having a reactive area of claim 6, wherein:

the reactive area is a chemically reactive coating material disposed on the lottery ticket and the automated lottery ticket cancellation device includes a radiant energy source configured to generate radiant energy and to

permanently mark the area when the unplayed lottery ticket is positioned adjacent the radiant energy device.

9. (New) The lottery terminal configured for canceling an unplayed lottery ticket having a reactive area of claim 6, wherein:

the reactive area is a chemically reactive coating material disposed on the lottery ticket and the automated lottery ticket cancellation device includes a chemical application device configured to apply a chemical to the reactive area and to permanently mark the area when the unplayed lottery ticket is positioned adjacent the radiant energy device.

10. (New) The lottery terminal configured for canceling an unplayed lottery ticket having a reactive area of claim 6, further comprising:

an input device in communication with the controller, the input device configured to receive a request to cancel an unplayed lottery ticket and to communicate the request to the controller.

11. (New) The lottery terminal configured for canceling an unplayed lottery ticket having a reactive area of claim 10, wherein

the controller is further configured to activate the cancellation device in response to the request communicated from the input device.

12. (New) The lottery terminal configured for canceling an unplayed lottery ticket having a reactive area of claim 6, further comprising:

an output device in communication with the controller, the output device configured to produce an indication that a refund should be provided for a canceled ticket only after the ticket has been permanently marked.

13. (New) A method for canceling an unplayed lottery ticket

having a reactive area, said method comprising:

receiving the unplayed lottery ticket in a lottery terminal;

permanently marking the unplayed lottery ticket by activating the reactive area; and

after the permanent marking, imaging the unplayed lottery ticket.

14. (New) The method for canceling an unplayed lottery ticket having a reactive area of claim 13, wherein

the reactive area is a thermally reactive coating material disposed on the ticket and wherein the permanent marking includes heating the reactive area.

15. (New) The method for canceling an unplayed lottery ticket having a reactive area of claim 13, wherein

the reactive area is a chemically reactive coating material disposed on the ticket and wherein the permanent marking includes applying radiant energy to the reactive area.

16. (New) The method for canceling an unplayed lottery ticket having a reactive area of claim 13, further comprising:

after permanent marking, recording a control number of the unplayed lottery ticket.

17. (New) The method for canceling an unplayed lottery ticket having a reactive area of claim 13, further comprising:

detecting the permanent marking of the reactive area.

18. (New) The method for canceling an unplayed lottery ticket having a reactive area of claim 17, further comprising:

after the permanent marking of the reactive area has been detected, generating a message that a refund should be provided for the canceled lottery ticket.

19. (New) The method for canceling an unplayed lottery ticket having a reactive area of claim 17, further comprising:

after the permanent marking of the reactive area has
been detected, generating a replacement lottery ticket.